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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,342	12/03/2003	Alfred Yoakim	88265-7072	8608

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WINSTON & STRAWN
PATENT DEPARTMENT
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EXAMINER

KUHNS, SARAH LOUISE

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/728,342

Applicant(s)

YOAKIM ET AL.

Examiner

Sarah L Kuhns

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: The first line of page 4 states "an plastic/plastic composite." The examiner has interpreted this to be error that is meant to be "a aluminum/plastic composite."

Appropriate correction is required.

Claim Objections

Claim 1 is objected to because of the following informalities: "Therebetween" should be "there between." Appropriate correction is required.

Claim 4 is objected to because of the following informalities: The word "of" before "a non-woven" in the second line of the claim should be deleted. In the third line of the claim it states "so hat it will" which should be "so that it will." Appropriate correction is required.

Claim 16 is objected to because of the following informalities: "Woven" should be "non-woven" and the examiner has interpreted the claim as such. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 11-14, and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Fond, U.S. Patent 5,897,899.

In regard to claims 1 and 2, Fond discloses a sealed cartridge comprising first and second sheet materials joined to form a space there between, and ground coffee (3) located in the space between the sheets, with the first material (2) designed to admit water into the cartridge for extraction of the beverage from the coffee, and the second material (4) having properties to retain water or beverage in the cartridge until an overpressure of above 1 bar, and particularly within the range of 2-15 bar, is achieved at which overpressure the second material will rupture to allow the extracted beverage to exit the cartridge (claim 1 and column 5, lines 38-45).

In regard to claims 3 and 4, Fond discloses the first sheet (2) being made of a non-woven fiber or a semi-rigid material having a density within the claimed range that will permit water to enter the cartridge by gravity flow (column 6, lines 23-40).

In regard to claim 5, Fond discloses the first material (2) being aluminum with a thickness of at least 20 microns that is configured to allow puncturing by piercing means (20) in order for water to be admitted into the cartridge (column 6, lines 24-26).

In regard to claim 6, 7, and 9, Fond discloses the second material (4) being paper, a non-woven fiber, or an aluminum/plastic composite material (column 5, lines 49-59) that is capable of retaining water in the cartridge until the overpressure is reached (column 5, lines 37-45).

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In regard to claim 8, Fond discloses the second sheet (4) including weakened regions (13), which open when the overpressure is reached (column 7, lines 10-37).

In regard to claims 11 and 12, Fond discloses the materials of the first (2) and second (4) sheets be made of oxygen barrier materials or non-oxygen barrier materials (column 6, lines 10-40).

In regard to claim 13, Fond discloses a cartridge wherein the first sheet material (2) is a non-woven fiber or a semi-rigid material (column 6, lines 23-40), the second material (4) is paper, a non-woven fiber or plastic material, or a composite material (column 6, lines 10-23) and the first sheet is welded to the second material (column 6, lines 41-43).

In regard to claim 14, Fond discloses a cartridge that holds 5-20 grams of coffee, wherein the first (2) and second (4) sheet materials have polygonal shape (figures 1-3, column 5, lines 23-36).

In regard to claim 16, Fond discloses the first (2) and second (4) materials each being non-woven material (column 6, lines 23-40 and column 5, lines 49-59).

In regard to claim 17, Fond discloses the first material (2) being aluminum (column 6, lines 23-30) and the second material (4) is filter paper (column 6, lines 10-23).

In regard to claim 18, Fond discloses the first material (2) being a non-woven fiber (column 6, lines 31-40) and the second material (4) being an aluminum/plastic composite (column 5, lines 49-59).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fond in view of Illy, U.S. Patent 4,253,385.

In regard to claim 10, Fond does not disclose a removable cover. Illy discloses a coffee cartridge comprising first and second sheet materials joined to form a space there between for holding coffee (21) and further discloses a removable cover (column 2, lines 1-2) for the cartridge. It would therefore be obvious to make the cover of the cartridge of Fond removable in order to make the cartridge reuseable.

In regard to claim 15, Fond discloses the second material (4) being filter paper (column 5, lines 60-65), but does not disclose the first material (2) being filter paper. However, it was well known to one of ordinary skill in the art to use filter paper as both the first and second materials when making a coffee cartridge, as evidenced by Illy (column 2, lines 10-13). Therefore, it would have been obvious to use filter paper as the first material, as well as the second material, since such a material is conventional in the field.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah L. Kuhns whose telephone number is 571-272-1088. The examiner can normally be reached on Monday - Friday from 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SLK



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